

**Pt. 248, Subpt. B, App.**

**17 CFR Ch. II (4–1–10 Edition)**

(b) *Mandatory compliance date.* Compliance with this subpart is required not later than January 1, 2010.

(c) *Prospective application.* The provisions of this subpart do not prohibit you from using eligibility information that you receive from an affiliate to make a marketing solicitation to a consumer if you receive such information prior to January 1, 2010. For purposes of this section, you are deemed to receive eligibility information when such information is placed into a common database and is accessible by you.

**APPENDIX TO SUBPART B OF PART 248—  
MODEL FORMS**

a. Although you and your affiliates are not required to use the model forms in this Appendix, use of a model form (if applicable to each person that uses it) complies with the requirement in section 624 of the FCRA for clear, conspicuous, and concise notices.

b. Although you may need to change the language or format of a model form to reflect your actual policies and procedures, any such changes may not be so extensive as to affect the substance, clarity, or meaningful sequence of the language in the model forms. Acceptable changes include, for example:

1. Rearranging the order of the references to “your income,” “your account history,” and “your credit score.”

2. Substituting other types of information for “income,” “account history,” or “credit score” for accuracy, such as “payment history,” “credit history,” “payoff status,” or “claims history.”

3. Substituting a clearer and more accurate description of the affiliates providing or covered by the notice for phrases such as “the [ABC] group of companies.”

4. Substituting other types of affiliates covered by the notice for “credit card,” “insurance,” or “securities” affiliates.

5. Omitting items that are not accurate or applicable. For example, if a person does not limit the duration of the opt out period, the notice may omit information about the renewal notice.

6. Adding a statement informing the consumer how much time they have to opt out before shared eligibility information may be used to make solicitations to them.

7. Adding a statement that the consumer may exercise the right to opt out at any time.

8. Adding the following statement, if accurate: “If you previously opted out, you do not need to do so again.”

9. Providing a place on the form for the consumer to fill in identifying information, such as his or her name and address.

10. Adding disclosures regarding the treatment of opt-outs by joint consumers to comply with §248.123(a)(2), if applicable.

A-1—Model Form for Initial Opt Out Notice  
(Single-Affiliate Notice)

A-2—Model Form for Initial Opt Out Notice  
(Joint Notice)

A-3—Model Form for Renewal Notice  
(Single-Affiliate Notice)

A-4—Model Form for Renewal Notice (Joint  
Notice)

A-5—Model Form for Voluntary “No  
Marketing” Notice

A-1—MODEL FORM FOR INITIAL OPT OUT NOTICE (SINGLE-AFFILIATE NOTICE)—[YOUR CHOICE TO LIMIT MARKETING]/[MARKETING OPT OUT]

• [Name of Affiliate] is providing this notice.

• [Optional: Federal law gives you the right to limit some but not all marketing from our affiliates. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from our affiliates.]

• You may limit our affiliates in the [ABC] group of companies, such as our [investment adviser, broker, transfer agent, and investment company] affiliates, from marketing their products or services to you based on your personal information that we collect and share with them. This information includes your [income], your [account history with us], and your [credit score].

• Your choice to limit marketing offers from our affiliates will apply [until you tell us to change your choice]/[for x years from when you tell us your choice]/[for at least 5 years from when you tell us your choice]. [Include if the opt out period expires.] Once that period expires, you will receive a renewal notice that will allow you to continue to limit marketing offers from our affiliates for [another x years]/[at least another 5 years].

• [Include, if applicable, in a subsequent notice, including an annual notice, for consumers who may have previously opted out.] If you have already made a choice to limit marketing offers from our affiliates, you do not need to act again until you receive the renewal notice.

To limit marketing offers, contact us [include all that apply]:

• By telephone: 1-877-###-####

• On the Web: [www.---.com](http://www.---.com)

• By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

## Securities and Exchange Commission

## Pt. 248, Subpt. B, App.

Do not allow your affiliates to use my personal information to market to me.

### A-2—MODEL FORM FOR INITIAL OPT OUT NOTICE (JOINT NOTICE)—[YOUR CHOICE TO LIMIT MARKETING]/[MARKETING OPT OUT]

• The [ABC group of companies] is providing this notice.

• [Optional: Federal law gives you the right to limit some but not all marketing from the [ABC] companies. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from the [ABC] companies.]

• You may limit the [ABC] companies, such as the [ABC investment companies, investment advisers, transfer agents, and broker-dealers] affiliates, from marketing their products or services to you based on your personal information that they receive from other [ABC] companies. This information includes your [income], your [account history], and your [credit score].

• Your choice to limit marketing offers from the [ABC] companies will apply [until you tell us to change your choice]/[for x years from when you tell us your choice]/[for at least 5 years from when you tell us your choice]. [Include if the opt out period expires.] Once that period expires, you will receive a renewal notice that will allow you to continue to limit marketing offers from the [ABC] companies for [another x years]/[at least another 5 years].

• [Include, if applicable, in a subsequent notice, including an annual notice, for consumers who may have previously opted out.] If you have already made a choice to limit marketing offers from the [ABC] companies, you do not need to act again until you receive the renewal notice.

To limit marketing offers, contact us [include all that apply]:

- By telephone: 1-877-###-####
- On the Web: *www.—.com*

• By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

Do not allow any company [in the ABC group of companies] to use my personal information to market to me.

### A-3—MODEL FORM FOR RENEWAL NOTICE (SINGLE-AFFILIATE NOTICE)—[RENEWING YOUR CHOICE TO LIMIT MARKETING]/[RENEWING YOUR MARKETING OPT OUT]

• [Name of Affiliate] is providing this notice.

• [Optional: Federal law gives you the right to limit some but not all marketing from our affiliates. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from our affiliates.]

• You previously chose to limit our affiliates in the [ABC] group of companies, such as our [investment adviser, investment company, transfer agent, and broker-dealer] affiliates, from marketing their products or services to you based on your personal information that we share with them. This information includes your [income], your [account history with us], and your [credit score].

• Your choice has expired or is about to expire.

To renew your choice to limit marketing for [x] more years, contact us [include all that apply]:

- By telephone: 1-877-###-####
- On the Web: *www.—.com*

• By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

Renew my choice to limit marketing for [x] more years.

### A-4—MODEL FORM FOR RENEWAL NOTICE (JOINT NOTICE)—[RENEWING YOUR CHOICE TO LIMIT MARKETING]/[RENEWING YOUR MARKETING OPT OUT]

• The [ABC group of companies] is providing this notice.

• [Optional: Federal law gives you the right to limit some but not all marketing from the [ABC] companies. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from the [ABC] companies.]

• You previously chose to limit the [ABC] companies, such as the [ABC investment adviser, investment company, transfer agent, and broker-dealer] affiliates, from marketing their products or services to you based on your personal information that they receive from other ABC companies. This information includes your [income], your [account history], and your [credit score].

• Your choice has expired or is about to expire.

To renew your choice to limit marketing for [x] more years, contact us [include all that apply]:

- By telephone: 1-877-###-####
- On the Web: *www.—.com*

• By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

Renew my choice to limit marketing for [x] more years.

### A-5—MODEL FORM FOR VOLUNTARY “NO MARKETING” NOTICE—YOUR CHOICE TO STOP MARKETING

• [Name of Affiliate] is providing this notice.

• You may choose to stop all marketing from us and our affiliates.

• [Your choice to stop marketing from us and our affiliates will apply until you tell us to change your choice.]

To stop all marketing, contact us [include all that apply]:

• By telephone: 1-877-###-####

• On the Web: *www.---.com*

• By mail: check the box and complete the form below, and send the form to:

[Company name]

[Company address]

Do not market to me.

## PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Sec.

249.0–1 Availability of forms.

### Subpart A—Forms for Registration or Exemption of, and Notification of Action Taken by, National Securities Exchanges

249.1 Form 1, for application for, and amendments to applications for, registration as a national securities exchange or exemption from registration pursuant to Section 5 of the Exchange Act.

249.10 Form 1–N for notice registration as a national securities exchange.

249.11 Form R31 for reporting covered sales and covered round turn transactions under section 31 of the Act.

249.25 Form 25, for notification of removal from listing and/or registration.

249.26 Form 26, for notification of the admission to trading of a substituted or additional class of security under Rule 12a–5 (§240.12a–5 of this chapter).

### Subpart B—Forms for Reports To Be Filed by Officers, Directors, and Security Holders

249.103 Form 3, initial statement of beneficial ownership of securities.

249.104 Form 4, statement of changes in beneficial ownership of securities.

249.105 Form 5, annual statement of beneficial ownership of securities.

### Subpart C—Forms for Applications for Registration of Securities on National Securities Exchanges and Similar Matters

249.208 [Reserved]

249.208a Form 8–A, for registration of certain classes of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

249.208b–249.208c [Reserved]

249.210 Form 10 and Form 10–SB, general form for registration of securities pursu-

ant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

249.210b [Reserved]

249.218 Form 18, for foreign governments and political subdivisions thereof.

249.220f Form 20–F, registration of securities of foreign private issuers pursuant to section 12(b) or (g), annual and transition reports pursuant to sections 13 and 15(d), and shell company reports required under Rule 13a–19 or 15d–19 (§240.13a–19 or §240.15d–19 of this chapter).

249.240f Form 40–F, for registration of securities of certain Canadian issuers pursuant to section 12(b) or (g) and for reports pursuant to section 15(d) and Rule 15d–4 (§240.15d–4 of this chapter).

249.250 Form F–X, for appointment of agent for service of process by issuers registering securities on Form F–8, F–9, F–10 or F–80 (§239.38, 239.39, 239.40 or 239.41 of this chapter), or registering securities or filing periodic reports on Form 40–F (§249.240f of this chapter), or by any issuer or other non-U.S. person filing tender offer documents on Schedule 13E–4F, 14D–1F or 14D–9F (§240.13e–102, 240.14d–102 or 240.14d–103 of this chapter), or by any non-U.S. person acting as trustee with respect to securities registered on Form F–7 (§249.37 of this chapter), F–8, F–9, F–10 or F–80.

### Subpart D—Forms for Annual and Other Reports of Issuers Required Under Sections 13 and 15(d) of the Securities Exchange Act of 1934

249.306 Form 6–K report of foreign issuer pursuant to Rules 13a–16 (§240.13a–16 of this chapter) and 15d–16 (§240.15d–16 of this chapter) under the Securities Exchange Act of 1934.

249.308 Form 8–K, for current reports.

249.308a Form 10–Q, for quarterly and transition reports under sections 13 or 15(d) of the Securities Exchange Act of 1934.

249.310 Form 10–K, for annual and transition reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

249.310b–249.310c [Reserved]

249.311 Form 11–K, for annual reports of employee stock purchase, savings and similar plans pursuant to section 15(d) of the Securities Exchange Act of 1934.

249.312 Form 10–D, periodic distribution reports by asset-backed issuers.

249.318 Form 18–K, annual report for foreign governments and political subdivisions thereof.

249.322 Form 12b–25—Notification of late filing.

249.323 Form 15, certification of termination of registration of a class of security under section 12(g) or notice of suspension of duty to file reports pursuant to sections 13 and 15(d) of the Act.